

## COASTAL CONSERVANCY

Staff Recommendation

July 16, 2007

### LOS PEÑASQUITOS CREEK SEDIMENT BASIN CONSTRUCTION

File No. 01-119-02

Project Manager: Karen C. Bane

**RECOMMENDED ACTION:** Authorization to disburse an amount not to exceed \$328,000 to the Los Peñasquitos Lagoon Foundation to construct a sediment basin along Los Penasquitos Creek and to educate the community about preventing sedimentation of the Los Peñasquitos Lagoon.

**LOCATION:** Los Penasquitos Creek, City of San Diego, County of San Diego

**PROGRAM CATEGORY:** Resource Enhancement

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#### **EXHIBITS**

Exhibit 1: [Project Location and Site Map](#)

Exhibit 2: [Monitoring and Maintenance Plan](#)

Exhibit 3: [Previous Staff Recommendation](#)

Exhibit 4: [Letters of Support](#)

Exhibit 5: [Mitigated Negative Declaration](#)

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#### **RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31257 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed three hundred twenty eight thousand dollars (\$328,000) to the Los Peñasquitos Lagoon Foundation (LPLF) for the construction of a sediment basin along Los Penasquitos Creek and to educate the community about preventing sedimentation of the Los Peñasquitos Lagoon in San Diego County. This authorization is subject to the condition that prior to the disbursement of any funds, the LPLF shall submit for the review and approval of the Conservancy’s Executive Officer:

1. A work program, including schedule, budget, and deliverables;
  2. Written evidence that all permits and approvals necessary to the completion of the project under applicable local, state and federal laws and regulations have been obtained;
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3. A recorded agreement between Los Penasquitos Lagoon Foundation, the landowner, and the Conservancy to protect the public interest in the constructed improvement pursuant to Public Resources Code Section 31116(c).
4. The names of any contractors it intends to use to conduct the project."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the purposes and criteria in Chapter 6 of the Public Resources Code (Sections 31251-31270) regarding the enhancement of coastal resources.
2. The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001.
3. The proposed project is consistent with the Los Peñasquitos Lagoon Enhancement Plan approved by the Conservancy on October 30, 1985.
4. The proposed project has been identified in the City of San Diego North City Local Coastal Program as needing public action to resolve existing resource protection problems.
5. The proposed project is consistent with the purposes of the Los Peñasquitos Special Deposit Fund established to provide for management of the lagoon.
6. Los Peñasquitos Lagoon Foundation is a private nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, and whose purposes are consistent with Division 21 of the Public Resources Code.
7. The Conservancy has reviewed the proposed Mitigated Negative Declaration, attached to the accompanying staff recommendation as Exhibit 5 and finds that the project, as mitigated, avoids or reduces or mitigates the possible significant environmental effects and that there is no substantial evidence that the Los Penasquitos Creek Sediment Basin project will have a significant effect on the environment, as defined in 14 California Code of Regulations Section 15382.

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## **PROJECT SUMMARY:**

Staff recommends that the Conservancy authorize the disbursement of an amount not to exceed \$328,000 to the Los Peñasquitos Lagoon Foundation to construct a sediment basin along Los Penasquitos Creek to assist in the enhancement of the Los Peñasquitos Lagoon.

Los Penasquitos Lagoon (LPL) is recognized as an important coastal resource at local, state, national and international levels. It supports several endangered species (e.g. Least Bell's Vireo, Belding's Savannah Sparrow, Light Footed Clapper Rail, Salt Marsh Daisy), serves as a safe stopover for migratory birds traveling along the Pacific Flyway, and provides refuge for coastal marine species to feed and hide from predators. LPL is the closest lagoon to the only two Areas of Special Biological Significance located within San Diego: the San Diego Marine Life Refuge and the San Diego-La Jolla Ecological Reserve. The Southern California Wetlands Recovery Project, a partnership of 18 federal and state agencies, non-profit partners, scientists, and elected officials, recognizes the Lagoon as an important coastal wetland in its Work Plan and Wetland

Inventory. The State classifies LPL as a Critical Coastal Area. LPL is currently under consideration for protected status under the National Oceanic and Atmospheric Administration (NOAA) National Estuarine Research Reserve system, as well as a Wetland of International Significance under the United Nation's Ramsar Program.

Los Peñasquitos Lagoon is rapidly filling with sediment because urban development in the watershed has upset the geomorphic equilibrium of the three main tributaries (Carroll, Los Peñasquitos and Carmel Creeks) that empty into the Lagoon. Impacts associated with such rapid sedimentation include: reduced tidal mixing within lagoon channels, degradation and (in some cases) net loss of riparian and salt marsh vegetation; increased vulnerability to flooding for surrounding urban and industrial developments; turbidity associated with siltation in lagoon channels.

The project will consist of basin construction on City of San Diego property along Los Peñasquitos Creek (Exhibit 1) and some education and outreach concerning the effects of sedimentation on the lagoon. The basin is custom-designed to maximize sediment interception while minimizing impacts to surrounding habitat and view corridors. The sediment basin will cover an area of approximately 2.5 acres and is designed to withstand a 100-year storm event (16,800 cubic feet/second) without substantial damage. The basin has a sediment volume of 4,400 yd<sup>3</sup> (9,900 tons), which is between the sediment transport capacities of a 2-year and a 5-year flood flows. The northern basin slope would be graded to appear natural. The small watersheds to the north would discharge into the basin, intercepting their sediment into the basin. The existing rip-rap levee along the north bank of the creek would be removed at the basin entrance and lowered along the remainder of the basin reach to allow high flows to overtop it and return to the existing channel. A headwall and outlet pipe at the west end of the new basin would allow ponded water in the basin to discharge slowly back into the channel after storm events. The basin will be maintained according to the Monitoring and Maintenance Plan (Exhibit 2).

Founded in 1983, the Los Peñasquitos Lagoon Foundation (LPLF) is comprised of the major stakeholder groups and landowners operating in the lagoon and has been instrumental in restoring and managing LPL. A pioneer of adaptive management, LPLF has a certified enhancement plan and has had the benefit of relying on over 18 years of monitoring records to facilitate and guide management decisions. LPLF is fortunate to have leading members of the scientific, engineering, development and environmental communities on its Board of Directors and Technical Advisory Committee (TAC). This group has informed the development of the project and will advise project implementation.

**Site Description:** Los Peñasquitos Creek is the largest watershed discharging into the lagoon and the largest potential contributor of sediment to the lagoon. The proposed project is located on an approximately three-acre parcel owned by the City of San Diego and located east of Vista Sorrento Parkway and north of Sorrento Valley Boulevard, on the north bank of Los Peñasquitos Creek, within the Torrey Pines Community Planning Area and the Los Peñasquitos Canyon Preserve (Exhibit 1). The project area is located within the coastal zone.

Los Peñasquitos Lagoon is a 0.62-square-mile intertidal wetland located in the north coastal area of the City of San Diego, about sixteen miles north of downtown, and just north of the intersection of Interstates 5 and 805, between the communities of La Jolla and Del Mar (Location Map, Exhibit 1). It is one the few remaining intertidal wetlands in southern California. Much of the lagoon is owned and managed by California State Parks as the Los Peñasquitos Lagoon

Preserve. The lagoon is adjacent to Torrey Pines State Park and Beach, which lie immediately to the west and south.

The 98.5-square-mile watershed of the lagoon is a rapidly urbanizing area of the City of San Diego and is comprised of three major drainages: Carroll Canyon, Los Peñasquitos Canyon and Carmel Canyon. Both the lagoon and its watershed have been identified by the State Water Resources Control Board as an impaired water body with sedimentation and siltation from nonpoint sources threatening habitats, particularly in the lagoon and lower stream corridors (see the Final 2002 Clean Water Act Section 303(d) List of Water Quality Limited Segments for the San Diego Regional Water Quality Control Board, found at: <http://www.waterboards.ca.gov/tmdl/docs/2002reg9303dlist.pdf>).

**Project History:** In 1985 the Conservancy adopted the Los Peñasquitos Lagoon Enhancement Plan and Program to address the management needs for restoring and enhancing the natural state of LPL. One of the key policies for implementing that Plan was controlling sedimentation that damages the lagoon. Plan Element 3.3.7.3 specifically called for designing and implementing improvements in the tributary streams and watersheds to slow sedimentation. In 2001, the Conservancy authorized disbursement of funds for a hydrology study to evaluate solutions to the sedimentation problems caused by extensive urbanization and industrial development in the western portion of the watershed over the preceding 20 years (Previous Staff Recommendation, Exhibit 3). At that time, Conservancy staff anticipated that the study would provide information necessary to design sediment control facilities in the watershed to be constructed with State Water Resources Control Board (SWRCB) funding.

#### PROJECT FINANCING:

Coastal Conservancy	\$328,000
Los Penasquitos Lagoon Foundation	42,000
State Water Resources Control Board	<u>1,107,000</u>
<b>Total Project Cost</b>	<b>\$1,477,000</b>

The source of Coastal Conservancy funds is the Los Peñasquitos Lagoon Enhancement Fund, a subaccount of the Coastal Trust Fund, which consists of fees assessed on development permits issued by the City of San Diego and the California Coastal Commission in the coastal zone portion of the Los Peñasquitos Lagoon enhancement area. These funds are held by the Conservancy and may be spent only for enhancement activities in Los Peñasquitos Lagoon. The proposed actions are consistent with the purposes of the fund because controlling sedimentation is an element of the enhancement plan for the lagoon as approved by the Conservancy and Coastal Commission in 1985. Specifically, the Plan states that “sedimentation control measures in the [lagoon] were specifically considered and rejected as too environmentally damaging, and not strictly required in the [lagoon]” and proposes measures to control sources of sediment in the watershed including sediment basins in Carroll and Los Penasquitos Canyons.

The majority of the project is supported by a grant from the SWRCB through its Nonpoint Source Pollution Control Grant Program funded by Proposition 40. The Los Penasquitos Lagoon Foundation will contribute funds, too.

**CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

The proposed action is consistent with Chapter 6 of the Conservancy's enabling legislation, Division 21 of the Public Resources Code Sections 31251-70. Consistent with Section 31251, the proposed action would award a grant to a nonprofit organization to enhance the natural and scenic character of Los Penasquitos Lagoon that has been impacted by human-induced events and incompatible land uses. As required in Section 31252, the proposed project has been identified in the City of San Diego, North City Local Coastal Program as described in the "Consistency with Local Coastal Program Policies" section, below. Section 31253 permits the Conservancy to provide up to the total cost of any coastal resource enhancement project, consistent with established project eligibility and priority factors. As discussed below, this project is consistent with the Conservancy's adopted Project Selection Criteria and Guidelines. Moreover, Conservancy funds will be matched by other support at a 4.5 to 1 ratio. Pursuant to Section 31263, the Conservancy may authorize a nonprofit organization to undertake resource enhancement activities consistent with an approved resource enhancement plan for the area. In 1985 the Conservancy and the Coastal Commission adopted the Los Peñasquitos Lagoon Enhancement Plan and Program, which identifies control of sedimentation as one of the key goals.

**CONSISTENCY WITH CONSERVANCY'S  
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 5, Objective A** of the Conservancy's Strategic Plan, in order to protect, restore and enhance the 0.62-square-mile Los Peñasquitos Lagoon intertidal wetland, the project would help control a watershed threat.

Consistent with **Goal 6, Objective B** of the Conservancy's Strategic Plan, by reducing sedimentation of the Los Penasquitos Lagoon, the project would improve water quality for an important coastal resource.

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

**Required Criteria**

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** Exhibit 4 contains support letters from the California Department of Parks and Recreation, which owns the lagoon to be protected by the proposed project, City of San Diego Council Member Peters, and County of San Diego Supervisor Slater-Price.
4. **Location:** The proposed project would be located within the coastal zone of the City of San Diego.

5. **Need:** The State Water Resources Control Board requires a match for its Non-point Source Pollution Control Grants. The proposed Conservancy grant will satisfy this requirement with funds that the Conservancy maintains in a trust account designated specifically for the enhancement of Los Peñasquitos Lagoon.
6. **Greater-than-local interest:** Protecting and enhancing the Los Peñasquitos Lagoon is of regional interest because it supports federal and state listed species, serves as a stopover along the Pacific flyway, and is identified by the Southern California Wetlands Recovery Project as a top priority coastal wetland resource. Large scale enhancement within the Lagoon should not proceed until upstream threats are adequately addressed. According to the Los Peñasquitos Lagoon Enhancement Plan and Program, San Diego Basin Plan and 2002 Clean Water Act Section 303(d) list, sedimentation from the watershed is a leading cause in the rapid destruction of salt marsh habitat in the Lagoon, making sediment reduction a management priority.

#### **Additional Criteria**

7. **Urgency:** Since the 1985 Enhancement Plan was approved by the Conservancy, urban development in the western portion of the watershed and along lagoon boundaries has accelerated dramatically, seriously increasing impacts to the lagoon, and increasing the urgency of implementing solutions.
9. **Leverage:** See the “Project Financing” section above.
12. **Readiness:** The Foundation has secured most of the required permits and has selected a contractor to begin construction in September, contingent upon Conservancy authorization of the proposed disbursement of funds.
13. **Realization of prior Conservancy goals:** See “Project History” above.
15. **Cooperation:** The City of San Diego is allowing the Foundation to construct the basin on its property.

#### **CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:**

Sediment management within the watershed draining to Los Peñasquitos Lagoon is consistent with the policies contained in the City of San Diego North City Local Coastal Program (LCP) effectively certified by the Coastal Commission in 1988. Specifically, the LCP states that: “A coastal restoration project should be undertaken with the Coastal Conservancy in order to properly establish the environmental management strategies necessary to enhance the natural viability of the Los Peñasquitos Lagoon” and that one strategy might include the “preservation of major areas of sediment storage ... so that [sediment] is not carried downstream into stream and lagoon channels.” (Torrey Pines Community Plan, LCP Addendum, 1981, p. 41). Elsewhere, the LCP states that: “A watershed protection and management program should be pursued and implemented in the Los Peñasquitos watershed to reduce the input of streamborne sediments and pollutants in to the Lagoon” including “sediment traps ... in water courses outside of the Lagoon area.” (Torrey Pines Community Plan, LCP Addendum, 1981, p. 48)

## COMPLIANCE WITH CEQA:

The California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 *et seq.*) requires consideration of potential environmental effects of agency actions and approvals, unless exempt. Accordingly, Conservancy staff reviewed the Initial Study/Mitigated Negative Declaration (Negative Declaration), attached as Exhibit 5, to evaluate the potential environmental consequences associated with implementation of the project. This document was prepared by the City of San Diego Development Services in conjunction with issuing coastal development and site development permits to the LPLF.

The Draft Negative Declaration was noticed and circulated for public review on November 14, 2005. Clarifications were made to the mitigation measures for biological resources in response to comments. On February 15, 2006 the Final Negative Declaration was signed by City of San Diego Development Services. On April 12, 2006, the City of San Diego Hearing Officer approved the project and determined that the project as approved would not have significant effects on the environment, the Negative Declaration was prepared pursuant to the provisions of CEQA, and the mitigation measures were made a condition of the approval of the project. A Notice of Determination was filed by the San Diego County Clerk on May 2, 2006.

The Negative Declaration identified possible significant effects of the project in the areas of paleontological, historical, and biological resources. Proposed mitigation that will avoid, reduce, or minimize the possible effect to a level of insignificance is outlined in the Negative Declaration, Section V, Mitigation, Monitoring, and Reporting Program (Exhibit 5) and summarized as follows:

Paleontological Resources. The project area is underlain with Bay Point Formation, which has been assigned a high paleontological resources sensitivity because it has produced large and diverse assemblages of well-preserved marine invertebrates as well as remains of fossil marine vertebrates such as sharks, rays and bony fishes. In addition, several known sites are located within a mile of the project site. Based on the sensitivity of the formation and the proposed excavation depth of over ten feet, the project could result in significant impacts to paleontological resources. To reduce this impact below a level of significance, excavation within previously undisturbed formations shall be monitored by a qualified paleontologist or paleontological monitor and any significant paleontological resources encountered shall be recovered and curated, as outlined in Section V of the Negative Declaration.

Historical Resources. The project site is located in an area of high cultural and historical resource sensitivity. According to a cultural resources report prepared for the project, no archaeological resources were identified within the project area during an archaeological survey but the records literature search resulted in the identification of 37 cultural resources within a one-mile radius of the project area. Due to the proximity of known archaeological resources, the construction of the proposed project could have a significant impact to historical resources. However, mitigation measures outlined in Section V of the Negative Declaration would reduce these potential impacts to a level below significant.

Biological Resources. Southern willow scrub on the riprap slope of the creek potentially provides appropriate breeding habitat for federally and state listed least Bell's vireo and southwestern willow flycatcher. In addition, raptors may use the habitat. There will be less than significant impacts to these species during project implementation and maintenance because no activities

will occur during their breeding seasons. All mitigation measures are contained in Section V of the Negative Declaration.

After independent review of the Negative Declaration, public comment and associated documents, Conservancy staff recommends that the Conservancy: (1) find that the project, as mitigated, avoids, reduces, or mitigates the possible effects of the construction and maintenance of the Los Penasquitos Creek Sediment Basin to a level of insignificance; and (2) find that there is no substantial evidence that the project, as mitigated, may have a significant effect on the environment.

The Negative Declaration, which includes the Initial Study, Public Comments, and Mitigation, Monitoring and Reporting Program, is attached as Exhibit 5. Upon approval, staff will file a Notice of Determination for the project.